

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

BETTA PRODUCTS, INC, and DANA
MCCURNIN, trustee of Betta
Products Litigation Trust,

No C 07-2661 VRW

ORDER

Appellant,

v

DISTRIBUTION SYSTEMS AND
SERVICES, INC,

Appellee.

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This appeal from the bankruptcy court is fully briefed and submitted. Appellant Betta Products, Inc (Betta) has requested dismissal without prejudice (Doc #15), representing that dismissal is necessary in order for Betta and its counsel to "focus their efforts on the pre-trial and trial preparations of their non-arbitrable [sic] claims." Id at 2. Appellee Distribution Systems and Services (DSS) opposes the dismissal without prejudice asserting that "[d]ismissal without prejudice would cause DSS irreparable harm by depriving it of the finality to which it is entitled, and leave it open to a future appeal at any time * * *." Doc #17 at 2.

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Accordingly, the court now orders as follows:

- (1) This appeal is stayed pending resolution of appellant's other proceedings in the bankruptcy court;
- (2) The clerk is directed to close the file administratively;
- (3) Appellant may re-open this appeal by means of an administrative motion in this court no later than thirty (30) days after the entry of judgment in the bankruptcy court;
- (4) If either party believes it is prejudiced by this order, it may advise the court in writing of the nature of the prejudice within ten (10) days of the date of this order.

IT IS SO ORDERED.



VAUGHN R WALKER
United States District Chief Judge